

CAN FISK SERVE ON THE SUPREME BENCH

Correspondent Doubts His Right to Fill Unexpired Term.

SOUTH DAKOTA CASES

Cited and Construed as Applicable to North Dakota Conditions.

To The Evening Times:

The present judicial muddle in this state has caused a lot of comment, especially in view of the fact that the law is not well settled as to the method of filling vacancies. There is no statute or provision in this state providing for the nomination and election of a judge to fill a vacancy. The only provision on the subject is found in the constitution in section 98 which in general terms provides that such vacancy shall be filled by the governor until the next general election when it shall be filled by election.

The refusal of Judge Plisk to accept the proposition of Judge Kauf to allow him to resign and to take up the position at once that the work of the court might not be delayed has caused the matter to be investigated with more ordinary care.

Our sister state of South Dakota has also been confronted with this same question. Their constitutiona provision is very similar to this state and provides that vacancies in district as well as supreme courts shall be filled by the governor by appointment until the next general election, but their legislature has failed to enact any law to carry in to effect this provision. In deciding one of these cases the court said: "It would become the duty of the legislature to provide for such election; and until such provision is made there is no law in this state for the election of judges."

This was the case of the State ex rei McGee vs. Gardner. In this case reported in 64 N. W. 606, Judge Nowlin resigned on Nov. 1, 1891 and the governor appointed William Gardner to fill such vacancy. On the next general election, held on Nov. 8, 1892 Levi McGee was a candidate for such position, and was duly elected. He qualified and demanded possession of the office which was refused by Gardner, who claimed that his appointment held for the unexpired term of Judge Nowlin. The court after an exhaustive examination of the law and authorities held that there was no law for filling such vacancy, and that the term "next general election" means "the next election at which it is provided by law that the officer may be elected whose office has become vacant."

This matter was again passed on in South Dakota by its supreme court in the case of a vacancy on the supreme bench caused by the death of Judge Bennett who died just about as he was commencing to serve his second six year term for which he was elected in November, 1893. In that case in constraining the constitutional provision the court held that the person appointed to fill such vacancy would hold the entire six years for which Judge Bennett was elected, notwithstanding the constitutional provision that the governor should appoint until "the next general election." See 57 N. W. 495.

Should North Dakota follow the construction placed on the law by its sister state it would seem that Judge Knauf's appointment would hold until the expiration of the term for which Judge Young was elected, the laws in both states being practically the same, and the legislature in this state having failed to make any provisions for filling such vacancies by election just as they likewise failed to do in South Dakota.

X. O. S.

START BASKETBALL PRACTICE

University and Y. M. C. A. Teams Are Hard at Work and Will Play Good Ball This Year.

The Y. M. C. A. and university basketball teams have entered into the first stage of hard work for the coming season. The first game will be played on Friday night the first week of November when the Fargo Y. M. C. A. will meet the local Y. M. C. A. team. The following afternoon the Fargoans will play the university aggregation. Dr. Sweetland has a good bunch to pick from and expects to put out the best team in the history of the institution. At center Sorenson, Oliver and Mason will contest for honors. Captain Netcher O'Keefe and Burke and several other

promising stars will put in bids for positions on the forward line. The guarding department will be looked after by Nelson, Farnham, Mahon and two or three other old timers at the game.

At the Y. M. C. A. the outlook is not so bright as no new material has been added to the aggregation. Albertson, one of the best guards on the team will not be seen in uniform. However, the boys expect to make up in team work what has been lost in material and will put a strong team on the floor.

A YELLOW NOVEL FIEND

Young Fergus Falls Lad Was Arrested Here Last Night—Brother Will Take Him Home.

George Biersdropp, a 14-year-old lad from Fergus Falls, was arrested at the Great Northern depot last night on information from his home charging him with the theft of \$70 from a brother. The boy is strongly addicted to yellow novels and concluded to seek his fortune in the great world. He was on his way to the home of a married sister living in British Columbia. He stepped from the train to purchase a ticket to that point and was immediately arrested by Capt. Sullivan. He had spent \$11 for literature on the train and the rest of the money he had placed inside his underclothing except \$25 with which he intended to purchase his ticket. He will be returned to his home at Fergus Falls as soon as his brother arrives in the city.

HUNTING NOT OF THE BEST

So Says Hotel Keeper, Who Has Been Out on Trip Through Western Part of State.

Fargo Forum: Returning from a two weeks' hunting trip in McKenzie county, just south of Williston, E. E. Cole, proprietor of the Metropole, stated that deer hunting in North Dakota this year is not what it has been in times past.

"The deer are growing scarcer every year," he said, "and while our party had fairly good luck, I have seen a good deal better hunting. We did not secure any very large deer though we got one or two sizeable ones."

Dr. James P. Aylen of Sheldon and Dr. H. M. Wheeler of Grand Forks accompanied Mr. Cole on the trip and together with the camp attendants and guides they succeeded in bagging a total of ten deer. The party camped in a tent during the entire trip and in spite of the cold did not suffer from exposure.

F. B. CHAPMAN FOR SPEAKER

Of the House at the Next Session Says a Newspaper Correspondent.

A newspaper correspondent writing for the Minneapolis Journal under a Fargo date, says: Some discussion is being heard over the state as to the probable selection of speaker in the next house. Speaker Pierce of the last house has a government job and will not be a member this winter. Few plans for the speakership have matured up to date, and the preliminary talk at present indicates that Representative Chapman of Williston stands as good a show as anyone else to wield the gavel over the next session.

Mr. Chapman was national bank examiner and resigned his resignation to become effective Jan. 1. In the meantime he was re-elected to the house. As a member of the last session he "made good" and has a large circle of friends and supporters. The western part of the state demands the speaker this year again, and Chapman may be the man.

Last session there was one lone democrat in the lower house. This session there will be thirteen, but the leaders are not disposed to regard that number as unlucky. Of the other eighty-seven members many of course are inclined to insurgentism, but there seems to be enough stalwarts in the house to organize that body as they wish.

In the senate, composed of forty members, there are nineteen hold-over republican senators, fourteen new republican members, one democratic holdover senator and six new democratic senators, unless the official figures greatly change the preliminary reports. Lieutenant Governor Lewis of this county will be ex-officio presiding officer in that body.

Cass county has twelve of the 140 members of the legislature, all republicans. Three of these members are in the senate and nine in the house. The Cass county members will caucus in a few days and determine on their plans for the coming session.

Extraordinary Discounts. Discounts like these are not offered in the furniture stores every day. Steel couch and mattress for \$7.20, regular price \$9.00. Regular \$8.00 iron bed for \$6.40. Many other bargains space does not permit us to quote here. You will do well to attend Panovitz furniture sale.

NINE JURYMEN ARE SECURED IN CASE

Of the State vs. Anton Sor, Which is Right Name of the Defendant.

PANEL IS EXHAUSTED

And Adjournment Was Taken Until December Third—Killing of Brother.

Out of the entire panel of jurymen in the district court at Grand Forks only nine were found who could serve as jurors in the case of the state of North Dakota vs. Anton Sor, who is charged with murder in the second degree. The name of the defendant in the case is Sor instead of Shore. This fact developed in court yesterday afternoon.

Judge W. J. Kneeshaw, who is sitting in the case of Calder-Prindleville, held the court at Grand Forks, and stated to a Times reporter today that court at Grand Forks had been adjourned until Dec. 3, when a special venire of jurymen will be summoned, the remainder of the jury of twelve men to try Sor picked, and the trial of the case taken up.

Owing to the widespread publicity given the case and the prominence of Sor in Walsh county, it is hard to secure a jury.

SERVICES ON THANKSGIVING

Presbyterian, Baptist and Methodist Congregations Will Join on Thursday Morning.

The pastors and congregation of the Presbyterian, Methodist and Baptist churches of this city will join in a union Thanksgiving meeting to be held in the Presbyterian church on Thursday, Nov. 29 at 10 o'clock a. m. The speaker will be Rev. Wm. Moore of the First Methodist church, who will deliver a sermon appropriate to the day and occasion.

The choirs of the several churches will likely join in a special musical endeavor for that service.

A SERIES OF SERMONS

Will Be Announced by Rev. F. E. R. Miller of the First Baptist Church on Sunday.

Rev. F. E. R. Miller will tomorrow announce a series of sermons on the subject, "Jesus' Doctrine and Its Personal Consequences," the plain truths from the Sermon on the Mount. The series will be an exposition of studies in his great document of Christian teaching. Following are the various sub-topics for each Sunday, commencing Dec. 2: "What He Says About Murder," "What He Says About Adultery," "What He Says About Oath Taking," "What He Says About Retaliation," "What He Says About Hatred."

HOUSEKEEPERS DREW FINES

Several of the "Elite" of the Hollow District of East Grand Forks Arraigned in Police Court.

The sun shines bright in the hollow district of East Grand Forks, but several of the inhabitants of that section are somewhat obscured. Today in Judge T. A. Sullivan's court rooms two of the housekeepers were brought before the bar of justice, and justice full was meted out to them in the shape of \$35 fines which were promptly forked over. But the housekeepers were not the only ones to suffer through the activity of the tantalizing fingers of the strong arms of the law. Fifty dollars additional was raised through the levying of a \$10 tax upon five inmates of the mansions in the hollow district. The showering of fines upon the residents of the ill-starred community will tend to keep things more under cover than has formerly been the case.

PECULIAR ACTION OF TRAIN

The Parts of Wrecked Oriental Went Through All Kinds of Strange and Funny Movements.

Old-time railroaders and Great Northern employes who have eyed the scene of the disastrous wreck of the Great Northern Oriental Limited near Doyon, N. D., in which Engineer Comert and Fireman Morrisette were killed, have all remarked on the peculiar actions of the engine, tender and coaches of the wrecked train after derailment.

When the accident occurred the flyer was speeding at the rate of fifty miles an hour and when the bad spot was encountered the big engine jumped sideways perpendicular to the roadbed and launched itself into the ditch where it lay partly overturned with its pilot digging into the bank of the ditch. Engineer Comert had succeeded in turning off steam and when his dead body was recovered his hand still grasped the throttle. The tender, on the other hand, kept straight down the track for a distance of over three car lengths and was finally brought to a stop with the rear wheels still on the ties. The mail car which coupled directly onto the coal tender, severed its connections with the cars ahead in the rear,

and plunged into the ditch on the opposite side from the engine and struck out across the prairie. The clerks in this car were injured by the rough passage accorded them in their rapid flight over the ditch. The next three succeeding cars, the baggage, smoker and day coach, headed down the track, past the fated engine straight for the coal tender. If a guiding hand had been at the steering gear they could not have hit the mark more directly for they were brought up with jar against the tender and subsequent examinations showed that not only had they taken the exact trail of the coal tender but that a perfect coupling had been made when the sections came together.

The smoker and the tourist cars were probably the most badly damaged cars of the train, both having large gaps and rents torn in their sides by forceful contact with the engine cab.

The last cars on the train turned slantwise and heaped up against the slanting engine and it was probably these cars that worked the havoc in the cab of the engine.

THE AD ALTIORA PROGRAM

At the University Convocation This Morning Was Interesting and Well Rendered.

The Ad Altiora Literary society of the university, the "all boy" society of the institution, gave the program at the convocation this morning. The program was a good one and was as follows:

Address—President J. M. Learn. "History of the Ad Altiora"—T. G. Johnson. "Public Opinion vs. the Lawyer"—Wm. C. Husband. "Scene From Rip Van Winkle"—Paul B. Griffith. "Some Advantages of a Literary Society"—J. F. T. O'Connor. Song "Ad Altiora"—By the society. Judge C. F. Amidon will be the speaker at the convocation exercises next Saturday.

PRACTICAL FARMERS WANTED

Tri-State Grain Growers' Convention to be Largely in Their Hands.

The Tri-State Grain Growers' association which meets at Fargo in January promises to be the best gathering of the agriculturalists of the state ever gotten together. President Worst and Secretary Johnson have sent out the following request to the farmers of the state which shows that they realize the importance of having the matter largely in the hands of men who know what they are talking about instead of men who know nothing of our local conditions. The statement reads as follows:

The ninth annual convention of the Tri-State Grain and Stock Growers' association will be held in Fargo Jan. 15, 16, 17 and 18, 1907. Some very good talent has already been secured for the program. It is desirable, however, to have the actual farmers and stock growers of the three states represented, to participate as largely as possible in the addresses and discussions. The best results generally arise from enlisting home talent. The purpose of the convention is to help the farmers of these three states. Perhaps, after all, farmers can best help themselves if they will but get together and discuss local affairs. It is impossible, however, for us to see the farmers personally. We hereby request our farmer friends to suggest subjects they wish to have discussed, as well as to give us the names of persons who will discuss them. Do not be afraid to send in the name of a subject, expressing your willingness to discuss the same.

This appeal is to you, progressive farmer. Let us hope to hear from you. Respectfully,
—J. H. Worst, President,
—J. A. Johnson, Secretary.

SPORTING MAN

Arrested on Charge of Embezzlement of Gans-Nelson Film Money.

Associated Press to The Evening Times.—Cincinnati, Nov. 24.—On a charge of embezzlement, "Billy" Nolan, manager of "Batling" Nelson, was arrested here today. The arrest came as a sensational finish to the dispute over the proceeds of the exhibition of pictures of the Gans-Nelson fight. Nolan, it is charged, withheld about \$7,000 from the California treasurer of the film, pending a decision as to the proper division of the money, and he was therefore arrested.

SAYS COURT HAS NO RIGHT IN THE CASE

Of Calder-Prindleville and Attorney for Board Moves for Dismissal.

OF ALTERNATIVE WRIT

Arguments Pro and Con Made and Case Submitted Late This Afternoon.

This morning in district court before Judge Kneeshaw a motion for the dismissal of the alternative writ in the case of Calder vs. the board of canvassers of Grand Forks county was made by Attorney Wineman, representing the board in the action. Attorney Wineman made his arguments this morning as did Attorney Murphy, representing Miss Prindleville, the candidate for superintendent of schools, against whom the action is directed.

Mr. Wineman argued that the board of canvassers was following out the provisions of the law, and that the district court had no right to issue the writ, and asked that it be dissolved.

Attorney Bangs, representing Mr. Calder made his arguments this afternoon, and a decision is expected this evening.

ADJOURNED LANGDON TERM

Judge Kneeshaw Found It Necessary to Adjourn the Term of Court at Langdon—Dec. 11 New Date.

The term of court at Langdon scheduled for the 4th of December has been postponed by Judge Kneeshaw from the 4th to the 11th. The change was made necessary by the continuance of the Sor murder case at Grand Forks. This case will come up on Dec. 3. Judge Kneeshaw will hold court all next week at Grand Forks, disposing of a number of cases which have piled up.

HAGEN MAY START AN ACTION

Stanley Farmer Arrested on Suspicion of Killing His Brother May Want Damages.

Martha Hagen, the Stanley, N. D., farmer recently arrested and brought to Devils Lake on suspicion of having killed his brother, may start an action for damages against the Ramsey county officials.

The box in which it was claimed that Hagen had placed the body of his brother, is said to have contained pork, and this fact started the report which resulted in Hagen's arrest.

THE SCHOOL ATTENDANCE

By Counties Throughout the State—There Are a Large Number of Children Enrolled.

The November apportionment of the state school funds is a small one because during the last three months there have been light collections on account of interest on land contracts and district bonds, and from fines and taxes. The February apportionment will probably be larger. For November Ward leads with Cass second and Grand Forks third. The amounts are:

Rate per capita from interest and income fund.....	\$37
Rate per capita from fines, taxes, etc.....	.06
Rate per capita from total state tuition fund.....	.43
The following shows the attendance in various counties of the state:	
Barnes.....	2,549
Benson.....	1,672
Billings.....	206
Butte.....	2,553
Burleigh.....	1,658
Cass.....	6,098
Cavalier.....	3,137
Dickey.....	1,342

Eddy.....	852
Emmons.....	844
Foster.....	933
Grand Forks.....	5,546
Griggs.....	1,020
Kidder.....	456
LaMoure.....	1,416
Logan.....	403
McHenry.....	2,362
McIntosh.....	835
McLean.....	2,166
Mercer.....	269
Morton.....	2,177
Nelson.....	1,634
Oliver.....	259
Pembina.....	3,533
Pierce.....	1,159
Ransom.....	2,288
Richland.....	1,456
Rolette.....	1,676
Sargent.....	1,600
Stark.....	1,575
Steele.....	1,127
Stutsman.....	2,533
Towner.....	2,024
Trails.....	2,721
Walsh.....	4,245
Ward.....	6,142
Wells.....	1,653
Williams.....	1,380
McKenzie.....	155
Total.....	80,600

MEN ARRESTED FOR PERJURY

Four Men Have Been Pinched by Marshal Stout and Will Be Tried Here.

Word comes from the western part of the state to the effect that four men have been arrested by Deputy United States Marshal Stout. They will probably be tried here on a charge of perjury in connection with making final proof, which is the charge against them. The men arrested are Peter Mayer, William Heiser, Joe Mayer and Jacob Barth.

VALLEY CITY BOOM.

Great Activity Shown in the Barnes County Metropolis.

Fargo Forum: From present indications there promises to be a building boom in Valley City next summer, according to J. W. Ross, the Grand Forks architect. Mr. Ross stopped at Fargo last night on the way to Valley City, and owing to the temporary blocking of the Northern Pacific west of here was obliged to remain in this city a part of this morning. He stated that he was on his way to Valley City to deliver plans for a large business block which Rushfelt & Lee will erect there. The block will be a two-story brick structure, 75 x 100 feet. There will be space for three stores on the ground floor and offices and flats above.

Mayor Wood of Valley City is planning to erect a fully modern four-flat building at a cost of \$15,000, and Mr. Ross is to submit plans for this. Mr. Ross stated that the erection of several other large buildings was being planned by Valley City people.

PANIC IN THEATER.

Horse Used in Play Leaped the Footlights and Smashed Things.

Associated Press to The Evening Times.—East St. Louis, Nov. 24.—While the performance was in progress at the Broadway opera house last night a horse utilized in the last act to draw the heroine in a buggy, became frightened and sprang over the footlights into the orchestra. The heroine fell unconscious to the stage and three women in the audience fainted, while the horse floundered around in the orchestra pit, demolishing chairs with its hoofs and creating intense excitement in the theater. The presence of mind of a number of men in seizing the horse and sitting on it, and at the same time admonishing the people to sit down, prevented a panic.

The Churches

Christian Scientist. First Church of Christ, Scientist—Regular Sunday services at 10:45 a. m. and 8 p. m. Subject, "Ancient and Modern Necromancy, or Mesmerism and Hypnotism." Morning service, solo by J. A. Evans. Sunday school at 12:20 p. m. Wednesday evening service at 8 o'clock. Public reading room in church foyer, open on week days from 2 to 4 p. m. Church edifice corner of Belmont and Fourth avenues. All are cordially invited to attend the services and visit the reading room.

First Baptist. Frank E. R. Miller, pastor. Public worship at 10:30 a. m., with a sermon upon the subject, "The Kind of a Gospel We Have to Preach." In the evening at 8:30 the subject of the discourse will be, "What the Child Owes to the Parent," the sixth in the series on "Marriage and Domestic Life." Excellent music, under the direction of Prof. Gladstone, with Miss Jane Smith at the organ, will accompany these services. Bible school at 12, R. B. Griffith, superintendent. B. Y. P. U. at 6:30. Prayer meeting Wednesday at 7:30 p. m. in the church parlors.

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OPPOSES PARDON TO WILLIAM MARTELL

Negro Convict Will Not Have Assistance of States Attorney.

PROSECUTED THE CASE

St. Lawrence Will Also Labor Without Officials' Help.

State's Attorney J. B. Wineman, who prosecuted the case of the state vs. William Martell, who was convicted and sentenced to twenty years in the state penitentiary on a charge of murdering a man named Malloy. The killing occurred in an alley near Fifth street and Alpha avenue. Martell got a twenty year sentence, and recently asked for a pardon.

Mr. Wineman will also oppose the granting of a pardon to Louis St. Lawrence, convicted of stealing a horse in this county last June. In the Keene case, another man who has asked for a pardon, it is probable that Mr. Wineman will recommend that the same be granted, although he has not decided as yet. Keene has been in prison two years.

FASHION PARAGRAPHS.

New York, Nov. 24.—It is not necessary to put on an expensive gown for every informal occasion, for it is worse to overdress than to underdress, but the craze for outdoor athletic life has had its marked effect on the dressing of women for any daytime affair. No matter who does it the extra short skirt, white shirtwaist that has no pretense at being a blouse, the turnover collar and cravat, the plain street hat and heavy shoes, have no place at the 5 o'clock tea in the fashionable house. Some women do it to show how casual they consider such a social occasion.

A coat suit is proper, although not as pretty this season, as a blouse frock worn to the house under a top coat; this is merely a matter of taste. The point is that the suit or frock should be the best one as good as one can afford, for there is to be a strong reaction for this winter from the fashion of street dressing used in the drawing rooms.

If it is necessary to go about at all in the evening in a public conveyance it is most necessary to have a long dark wrap that is at once smart and inconspicuous—in other words a wrap that will be correct for the theater, and be also appropriate in a street car. The best solution to this problem is to have a good fitting, long empire wrap of black or dark red, in a cloth or broadcloth. Black will be found most satisfactory, but red is often more becoming and is more youthful. Gray is another that is fashionable this year in its darker shades, and is, therefore, excellent for this style of cloak, as it is one of those indefinable which seem to be sufficiently dark or quite light and "dressy," as occasion demands.

Black over white is a French touch that is taking on this side of the water, and Hypnotism. Morning service, solo by J. A. Evans. Sunday school at 12:20 p. m. Wednesday evening service at 8 o'clock. Public reading room in church foyer, open on week days from 2 to 4 p. m. Church edifice corner of Belmont and Fourth avenues. All are cordially invited to attend the services and visit the reading room.

If a woman cannot afford two coats, one for morning and rough wear, the other for all social afternoon affairs, then by all means let her choose the one for all street. For the other occasions she can wear a blouse frock under a coat. This is the best arrangement of her money. The latter may be made at home and quite inexpensive in material. It can be lace trimmed with unlined yoke and lace sleeves. This suit will serve for every social affair, such as receptions, luncheons teas and theaters.

For the house the shirts are extremely full. They are long, sweeping the floor in the ordinary skirt and extending into a square court train or elaborate ball frocks. The latter will be worn, however, by the majority, for they are intended for that class who move in very formal society. The should not be worn casually to a simple affair. The debutante will wear them as she once did. They are one of the fashions really kept exclusively for the matrons.

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